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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,369	09/08/2005	Erwin Lock	10191/4075	4506
26646 7590 04/24/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
TO, TUAN C				
ART UNIT		PAPER NUMBER		
3663				
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04/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/519,369

**Applicant(s)**

LOCK ET AL.

**Examiner**

TUAN C. TO

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 12, the examiner has found none of the disclosures describes "wherein the case of the actual speed of the vehicle exceeding the predefined setpoint speed, preventing activation of the service brake if the actual speed of the vehicle exceeds the predefined setpoint speed by less than the first predefined speed difference".

In the specification, on page 3, lines 26 and 27, the driving speed control 20 checks whether the actual speed of the vehicle is greater than the predefined setpoint speed. On page 4, lines 9-11, the driving speed control 20 ascertains whether the actual speed exceeds the predefined setpoint speed by more than a second predefined speed difference". On page 4, lines 21-30, and page 5, lines 8-11, the examiner has

found the description of actual speed of the vehicle exceeding the predefined setpoint speed by less than a third predefined speed difference, by less than a fifth predefined speed difference. None of the disclosures includes the description of actual speed of the vehicle exceeding the predefined setpoint speed, preventing activation of the service brake if the actual speed of the vehicle exceeds the predefined setpoint speed by less than the first predefined speed difference.

Claims 13 and 14 are rejected for the same reason.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 12-14 are rejected under 35 U.S.C. 102 (b) as being anticipated by Hedstrom (US 5003483).

Regarding claim 12, Hedstrom teaches A method for controlling a speed of a vehicle, comprising: when an actual speed of the vehicle exceeds a predefined setpoint speed (abstract) by more than a first predefined speed difference, activating a service brake of the vehicle. It is noted that Hedstrom inherently discloses that the first

predefined speed difference has a value greater than zero since, in Hedstrom's invention, the braking device will be applied as soon as the vehicle speed exceeds a target value (column 3, lines 24-29; column 4, lines 3-8). In addition, Hedstrom further teaches that in the case of the actual speed of the vehicle is greater than a target speed, which is a setpoint speed, the braking system is actuated to lower the vehicle speed to the target speed (see column 1, lines 64-67).

In Hedstrom, in the case the deceleration exceeds defined limit value, which inherently shows the situation when the actual speed of the vehicle does not exceed a target value by a predefined speed difference, the brake application level can be adjusted downward. This shows that when the actual speed of the vehicle does not exceed a target value by a predefined speed difference, the activation of service brake application is inherently prevented.

As to claims 13, and 14, Hedstrom further teaches that if actual vehicle's speed is less than the target speed, the brake application is adjusted downward (column 4, lines 3-17). In addition, when the braking system is activated, the torque requested inherently reduced.

### ***Response to Arguments***

Applicant's amendment and remarks filed on 01/15/2008 has been fully considered. However, the claims listed above (claims 12-14) cannot be patentable over the cited prior art.

The applicant traverse the rejection of claims 12 for the following reason: claim 12 is directed to a method for controlling the speed of a vehicle. In said method, a

service brake of the vehicle is activated when the actual speed of the vehicle exceeds a predefined setpoint speed by more than a predefined non-zero speed difference, and in the case of the actual speed of the vehicle exceeding the predefined setpoint speed, the service brake is prevented from being activated if the actual speed of the vehicle exceeds the predefined setpoint speed by less than the first predefined speed difference. Hedstrom reference states that the braking device is activated as soon as the vehicle speed exceeds a target value, the Hedstrom necessarily cannot disclose or even suggest preventing activation of a service brake of the vehicle when the actual speed of the vehicle exceeds the setpoint speed, but by less than the non-zero predefined speed difference.

The applicant's argument is not persuasive because Hedstrom teaches a system/method for controlling the speed of a motor vehicle, in which a target speed is established and lowered upon each actuation of a driver-actuated brake. In the case of the actual speed of the vehicle is greater than a target speed, which is considered as a setpoint speed, the braking system is actuated to lower the vehicle speed to the target speed (see column 1, lines 64-67). In the case of the deceleration exceeds defined limit value, which inherently shows the situation when the actual speed of the vehicle does not exceed a target value by a predefined speed difference, the brake application level can be adjusted downward. This shows that when the actual speed of the vehicle does not exceed a target value by a predefined speed difference, the activation of service brake application is inherently prevented.

### ***Conclusions***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Primary Examiner of Art Unit 3663/3600

April 4, 2008